

Congress, during consideration of the Energy bill, identical legislation was accepted by voice vote as an amendment. I urge my colleagues to maintain their support for the Conserve by Bike Act.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, and Mrs. BOXER):

S. 809. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LAUTENBERG. Mr. President, today I am introducing the Access to Legal Pharmaceuticals Act (ALPhA). I want to thank Senators CORZINE and BOXER for cosponsoring this important piece of legislation.

This bill is simple. It ensures timely access to contraception and is crucial to protecting a woman's health and autonomy, and to keeping pharmacists and politicians out of personal, private matters.

This bill would protect an individual's access to legal contraception by requiring that if a pharmacist has a personal objection to filling a legal prescription for a drug or device, the pharmacy would be required to ensure that the prescription is filled by another pharmacist employed by the pharmacy who does not have a personal objection.

I came to the Senate 22 years ago. We've made a lot of progress, in women's health and women's rights since then. But today it seems like we're fighting to keep from sliding backward in some areas.

An individual's fundamental right of access to birth control is being attacked. Reports of some pharmacists refusing to fill prescriptions have been documented in twelve states.

The women that were denied were young and old; married and single; with children and without. Even women who were using birth control for other medical reasons aside from preventing conception have been denied access to the birth control pill.

If you told me 10 years ago that a woman's right to use contraception would be in jeopardy, I probably wouldn't have believed it. Today I have to believe it—because it's happening.

In Texas last year, a pharmacist refused to fill a legal prescription for the "morning after" contraceptive for a woman who had been raped. First she was assaulted and violated—then her rights were violated by a self-righteous pharmacist who didn't want to do his job.

In Milwaukee, a married woman in her mid-40s with four children got a prescription from her doctor for a morning-after pill. A pharmacist refused to do his job. He wouldn't fill the prescription.

A handful of pharmacists are saying they have a "right" to ignore prescriptions written by medical doctors.

Well, they do have a right. They have a right to get a new job if they don't want to fill legal prescriptions.

But nobody has a right to come between any person and their doctor. Not the government . . . not an insurance company . . . and not a pharmacist.

The American Pharmaceutical Association has adopted an "Oath of Pharmacists." The last part of the oath states: I take these vows voluntarily with the full realization of the responsibility with which I am entrusted by the public.

People trust pharmacists to fill the prescriptions that are written by their doctors. If pharmacists are allowed to pick and choose which prescriptions get filled, everyone's health will be at risk. Today they might not fill prescriptions for birth control pills. Tomorrow it could be painkillers for a cancer patient. Next year it could be medicine that prolongs the life of a person with AIDS or some other terminal disease.

I'm going to fight to protect all Americans against this radical assault on our rights.

I'm proud to introduce a bill that will require pharmacists to do one simple thing: their job.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Legal Pharmaceuticals Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) An individual's right to religious belief and worship is a protected, fundamental right in the United States.

(2) An individual's right to access legal contraception is a protected, fundamental right in the United States.

(3) An individual's right to religious belief and worship cannot impede an individual's access to legal prescriptions, including contraception.

SEC. 3. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.

(a) IN GENERAL.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"SEC. 249. DUTIES OF PHARMACIES WITH RESPECT TO REFUSAL OF PHARMACISTS TO FILL VALID PRESCRIPTIONS.

"(a) IN GENERAL.—A pharmacy that receives prescription drugs or prescription devices in interstate commerce shall maintain compliance with the following conditions:

"(1) If a product is in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief to fill a valid prescription for the product, the pharmacy ensures, subject to the consent of the individual presenting the prescription in any case in which the individual has reason to know of the refusal, that the prescription is, without delay, filled by another pharmacist employed by the pharmacy.

"(2) Subject to subsection (b), if a product is not in stock and a pharmacist employed by the pharmacy refuses on the basis of a personal belief or on the basis of pharmacy policy to order or to offer to order the product when presented a valid prescription for the product—

"(A) the pharmacy ensures that the individual presenting the prescription is immediately informed that the product is not in stock but can be ordered by the pharmacy; and

"(B) the pharmacy ensures, subject to the consent of the individual, that the product is, without delay, ordered by another pharmacist employed by the pharmacy.

"(3) The pharmacy does not employ any pharmacist who engages in any conduct with the intent to prevent or deter an individual from filling a valid prescription for a product or from ordering the product (other than the specific conduct described in paragraph (1) or (2)), including—

"(A) the refusal to return a prescription form to the individual after refusing to fill the prescription or order the product, if the individual requests the return of such form;

"(B) the refusal to transfer prescription information to another pharmacy for refill dispensing when such a transfer is lawful, if the individual requests such transfer;

"(C) subjecting the individual to humiliation or otherwise harassing the individual; or

"(D) breaching medical confidentiality with respect to the prescription or threatening to breach such confidentiality.

"(b) PRODUCTS NOT ORDINARILY STOCKED.—Subsection (a)(2) applies only with respect to a pharmacy ordering a particular product for an individual presenting a valid prescription for the product, and does not require the pharmacy to keep such product in stock, except that such subsection has no applicability with respect to a product for a health condition if the pharmacy does not keep in stock any product for such condition.

"(c) ENFORCEMENT.—

"(1) CIVIL PENALTY.—A pharmacy that violates a requirement of subsection (a) is liable to the United States for a civil penalty in an amount not exceeding \$5,000 per day of violation, and not to exceed \$500,000 for all violations adjudicated in a single proceeding.

"(2) PRIVATE CAUSE OF ACTION.—Any person aggrieved as a result of a violation of a requirement of subsection (a) may, in any court of competent jurisdiction, commence a civil action against the pharmacy involved to obtain appropriate relief, including actual and punitive damages, injunctive relief, and a reasonable attorney's fee and cost.

"(3) LIMITATIONS.—A civil action under paragraph (1) or (2) may not be commenced against a pharmacy after the expiration of the five-year period beginning on the date on which the pharmacy allegedly engaged in the violation involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'employ', with respect to the services of a pharmacist, includes entering into a contract for the provision of such services.

"(2) The term 'pharmacist' means a person authorized by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(3) The term 'pharmacy' means a person who—

"(A) is authorized by a State to engage in the business of selling prescription drugs at retail; and

"(B) employs one or more pharmacists.

"(4) The term 'prescription device' means a device whose sale at retail is restricted under section 520(e)(1) of the Federal Food, Drug, and Cosmetic Act.